

HOUSE No. 1339

By Mr. Scibak of South Hadley, petition of John W. Scibak and Judy A. Hinkley relative to the establishment of a residential petroleum clean up fund within the Department of Environmental Protection. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO ESTABLISH A RESIDENTIAL PETROLEUM CLEAN UP FUND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 21E of the General Laws, as appearing in the 2002
2 Official Edition, is hereby amended by adding After section 11 the
3 following section:—

4 Section 11A. (a) Notwithstanding any general or special law to
5 the contrary, the Department of Environmental Protection shall
6 establish a Residential Petroleum Clean Up Fund, hereafter
7 referred to as the Fund, to provide financial assistance in hardship
8 cases to property owners for the remediation of fuel leaks and
9 removal of ground contamination from above ground and buried
10 underground storage tanks at residential properties.

11 (b) The Fund is established as a special revolving fund and
12 shall be credited with:

13 i. such moneys as appropriated by the Legislature from the
14 Environmental Challenge Fund as defined in section 2J of chapter
15 29;

16 ii. any monies received as repayment of principal and interest
17 on outstanding loans made from the Residential Petroleum Clean
18 Up Fund;

19 iii. any monies recovered through liens pursuant to subsection
20 (e) of this act;

21 (c) Fund proceeds may only be awarded to the owner of a resi-
22 dential property who is unable to initiate or complete the remedia-
23 tion of a fuel leak and removal of ground contamination because
24 of financial hardship. In determining whether an applicant quali-
25 fies for assistance, the Department shall base its determination
26 upon the applicant's taxable income in the year prior to the date of
27 the application and the applicant's personal and business assets,
28 exclusive of the applicant's primary residence.

29 (d) The Department may award financial assistance from the
30 Fund to the owner of a residential property owner in the form of a
31 loan or a hardship grant as provided in this subsection.

32 a. An award of financial assistance, either as a loan or a grant,
33 or a combination of both, may be for up to 100% of the eligible
34 project costs.

35 b. The actual amount and the structure of the award as a loan or
36 a grant shall be determined by the Department after reviewing the
37 projected costs of the remediation project and the applicant's
38 ability to repay all or a portion of those costs, given the appli-
39 cant's assets and net worth.

40 c. All loans awarded from the Fund shall be for a term not to
41 exceed ten years at a rate between two percent and the Prime Rate
42 at the time of approval, based upon the applicant's ability to repay.

43 (e) The Department may also file a lien on the property where
44 the leak occurred. Liens filed pursuant to this subsection shall not
45 affect any valid lien, right or interest in the real property filed in
46 accordance with established procedure prior to the filing of this
47 notice of lien.

48 (f) Upon the sale of the property for which the loan was made,
49 the unpaid balance of the loan shall immediately become payable
50 in full.

51 (g) The Department may deny an application for financial assis-
52 tance, and any award of financial assistance may be recoverable
53 by the Department, upon a finding that:

54 a. the fuel leak was proximately caused by the applicant's
55 knowing conduct;

56 b. the applicant provided false information or withheld infor-
57 mation on a loan or grant application, or other relevant informa-
58 tion required to be submitted to the Department, on any matter

59 that would otherwise render the applicant ineligible for financial
60 assistance from the fund.

61 (h) If a property owner has insurance coverage for the remedia-
62 tion of the fuel leak, the

63 insurance coverage shall be the primary coverage for the costs
64 of a remediation. The property owner may apply for financial
65 assistance from the Fund for any excess, provided that the owner
66 can demonstrate financial hardship for the excess costs.